

Serial No. 10/803,157
Docket No.: 00219US2

Remarks

This application is a divisional of parent application serial no. 10/030,187. As originally filed, the claims of the parent were directed to a genus of compounds. During prosecution, the Examiner made a restriction requirement. In response, the Applicants voluntarily restricted the application to a single compound within one of the restriction groups. The claims now stand allowed, and the issue fee has been paid.

After Applicants had voluntarily restricted the claims in the parent application to a single compound, they filed a continuation application of the parent application. The claims in the continuation application (serial no. 10/754,923) were amended in such a way that they generically claimed the single compound claimed in serial no. 10/030,187, but did not claim it specifically. In addition, the instant divisional application of the parent application was filed.

The claims in the continuation application have now been allowed, without any requirement for restriction having been made; a terminal disclaimer was filed in the continuation application with respect to the parent application serial no. 10/030,187; and the issue fee has been paid.

Applicants now wish to amend the claims in the present divisional application so that they claim different subject matter from that claimed in the allowed parent and continuation applications.

Applicants have therefore canceled the pending claims (without prejudice) and added new claims directed to a process for making the compounds claimed in the parent and continuation applications, and to intermediates useful in this process.

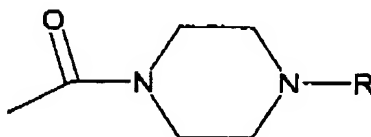
New Claim 36 is directed to a process for preparing a compound as claimed in Claim 1 of the continuation application. The definition of each variable in the compound

Serial No. 10/803,157
Docket No.: 00219US2

of formula (I) is the same as that in Claim 1 of the continuation application. The process features of the claim find support at page 37, lines 7 to 17 of the specification.

New Claim 37 has been made dependent on new Claim 36 and is directed to a process for preparing the compounds of Claim 26 of the continuation together with the compound of Claim 1 in the parent application. (All of the compounds listed in the claim are listed together at page 31, line 22 to page 32, line 9 of the specification).

New Claim 38 is directed to a compound of formula (10), which is used as an intermediate in the process of new Claim 36. Each of the variable groups of formula (10) is defined as in new Claim 36. It is believed that the compound of Claim 38 is particularly distinguished from any known compound in the definition of the group $L-Lp(D)_n$. The Examiner's attention is drawn to WO 99/11657 and WO 99/11658, cited in Applicants information disclosure statement. (The compound of formula (I) disclosed in the present application differs, inter alia, from those disclosed in WO 99/11657 and WO 99/11658 in the definition of R_2 and in the definition of $L-Lp(D)_n$). These references at least implicitly disclose certain intermediate compounds which can be characterized as a compound of the instant formula (10) in which $L-Lp(D)_n$ is a group of formula



in which R can be, for example, a directly bonded pyridyl or an unsubstituted or substituted phenyl group, but not a group as defined for R_x in the instant Claim 38. Although the definition of R_x in the instant Claim initially allows for R_x

Serial No. 10/803,157
Docket No.: 00219US2

to represent a group R_g in which R_g is 2-methylsulphonylphenyl which may bear a 4-fluoro substituent, this definition is cancelled out by the proviso. This part of the definition of R_g and the proviso could therefore be deleted together, but they have been retained so that support in the priority documents for the claims can easily be checked.

The Examiner's attention is also drawn to Claim 33 in the continuation application (serial no. 10/754,923). This claim (which is the same as the cancelled Claim 33 of the instant application) is directed to a sub-group of the compound of Claim 38 in which R_x is a piperidin-4-yl group that bears a methyl substituent at the 1-position.

New Claim 39 depends from new Claim 38 and is directed to a compound of Claim 38 in which Cy is phenyl. This is a preferred value for Cy, as described at page 21, line 11 of the specification.

New Claim 40 is directed to a compound of formula (11), which also is used as an intermediate in the process of new Claim 36. Each of the variable groups is defined as in new Claim 36. It is believed that the compound of this claim is distinguished from known compounds, inter alia, in the definition of the group R_2 and in having no substituent on the terminal piperazine nitrogen atom.

New Claim 41 is directed to an intermediate useful in the preparation of the compounds of Claim 38. Support for the claim may be found at page 35, lines 4 to 8 of the specification. Each of the variable groups other than the amino protecting group, Pg^3 , is defined as in new Claim 36.

New Claim 42 depends from new Claim 41 and is directed to a compound in which Pg^3 is a group of formula RCO , where R is as defined at page 40, lines 3 to 8 of the specification.

Serial No. 10/803,157
Docket No.: 00219US2

New Claim 43 also depends from new Claim 41 and is directed to a compound in which Pg^3 is t-butoxycarbonyl. This value for Pg^3 is disclosed at page 35, lines 7 to 8 of the specification.

New Claim 44 is directed to a compound useful as an intermediate in the preparation of the compound of new Claim 40. It finds support at page 34, lines 11 to 18 of the specification. Each of the variables other than the amino protecting group, Pg^1 , is defined as in new Claim 36.

New Claim 45 depends from new Claim 44 and is directed to a compound in which Pg^1 is a group of formula RCO , where R is as defined at page 40, lines 3 to 8 of the specification.

New Claim 46 also depends from new Claim 44 and is directed to a compound in which Pg^1 is t-butoxycarbonyl. This value for Pg^1 is disclosed at page 34, lines 14 to 15 of the specification.

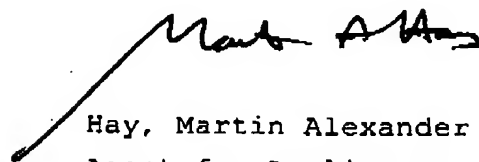
COMMUNICATION BY TELEPHONE

The undersigned's office is located in the United Kingdom, and hence the Examiner may have difficulty contacting him from the USPTO by telephone. If the Examiner wishes to speak with the undersigned by telephone, he can contact the undersigned by e-mail at martinahay@martin-a-hay.com, or leave a message with Linda McDonald at (317) 433 7140 (Eli Lilly and Company).

Serial No. 10/803,157
Docket No.: 00219US2

Favorable consideration of the application is
requested.

Respectfully submitted,



Hay, Martin Alexander
Agent for Applicants
Registration No. 39,459
Phone: 011 44 1625 500057
Email: martinahay@martin-a-hay.com

Customer No. 24330
[Martin A. Hay & Co.,
13 Queen Victoria Street
Macclesfield
Cheshire
SK11 6LP
UNITED KINGDOM]

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